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April 4, 2011

Via Facsimile to (609) 989-0435

Hon. Tonianne J. Bongiovanni, U.S.M.J.
United States District Court,
District Court of New Jersey
402 East State Street
Courtroom 6 East
Trenton, New Jersey 08608

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APR 12 2011

AT 8:30 _____ M
WILLIAM T. WALSH
CLERK

RECEIVED

AT 8:30 _____ M
WILLIAM T. WALSH
CLERK

Re: DeGennaro v. Rally Manufacturing Inc., et al.
Civil Action No.: 09-443 (JAP)
Our File No.: 348-1014

Dear Judge Bongiovanni:

This firm represents defendants Rally Manufacturing, Inc. ("Rally") and Pep Boys—Manny Moe & Jack of Delaware, Inc. ("Pep Boys"). We write in response to plaintiff's letter, dated March 22, 2011.

Plaintiff's letter lists several items he believes were left out of the discovery and affidavits defendants provided in October of 2010, pursuant to Your Honor's direction during the August 17, 2010 telephone conference. However, during said conference, Your Honor specified the types of information and affidavits defendants were obligated to produce, and the kind of information to be addressed therein. See Transcript of August 17, 2010 conference. The lengthy colloquy contained in plaintiff's letter regarding ostensibly missing information has already been addressed, and Your Honor has already ruled on the issues. Defendants have provided everything to which plaintiff is entitled.

Plaintiff also states his intention to depose several witnesses, including Walter Rupnik, an employee of defendant Pep Boys, who experienced an incident involving the subject product. However, Mr. Rupnik's incident occurred after plaintiff's incident, and therefore has no bearing on the notice issues that plaintiff apparently believes are relevant to his *prima facie* case against defendants. As to the issue of causation, as was discussed with Your Honor at the recent settlement conference, defendant Rally intends to move to amend its answer to admit liability herein. (We requested consent to amend the answer, however plaintiff refused to give it.) We expect to file the motion shortly, to be returnable on May 16, 2011. If the motion is granted, the issues raised by plaintiff regarding causation, and the testimony he believes is necessary to prove

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causation, will be moot. Accordingly, defendants respectfully request that Your Honor address the issue of depositions once the motion is decided.

We appreciate Your Honor's time and attention to this matter.

Respectfully submitted,



Margot Wilensky
Haworth Coleman & Gerstman, LLC

MW/mw

cc: (via email)

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SO Ordered
April 8, 2011
